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CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 327

Introduced by Assembly Member Perea

(Coauthors: Assembly Members Bigelow, Bonilla, Buchanan, Daly, Eggman, Fox, Beth Gaines, Garcia, Gray, Olsen, Pan, and Wagner)
(Coauthors: Senators Cannella, Correa, and Fuller)

February 13, 2013

An act to amend ~~Section~~ *Sections 382 and 739.1* of, and to repeal and add Sections 739.9 and 745 of, the Public Utilities Code, relating to energy utility rates.

LEGISLATIVE COUNSEL'S DIGEST

AB 327, as amended, Perea. Electricity: natural gas: rates.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical and gas corporations, as defined. Existing law authorizes the commission to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable. Existing law requires the commission to designate a baseline quantity of electricity and gas necessary to supply a significant portion of the reasonable energy needs of the average residential customer and requires that electrical and gas corporations file rates and charges, to be approved by the commission, providing baseline rates. Existing law requires the commission, in establishing the baseline rates, to avoid excessive rate increases for residential customers. Existing law requires the commission to establish a program

of assistance to ~~specified~~ low-income electric and gas customers, referred to as the California Alternate Rates for Energy (CARE) program. *The CARE program provides lower rates to low-income customers that are financed through a separate rate component, which is required to be a nonbypassable element of the local distribution service and collected on the basis of usage. Eligibility for the CARE program is for those electric and gas customers with annual household incomes that are no greater than 200% of the federal poverty guideline levels.*

Existing law revises certain prohibitions upon raising residential electrical rates adopted during the energy crisis of 2000–01, to authorize the commission to increase the rates charged residential customers for electricity usage up to 130% of the baseline quantities by the annual percentage change in the Consumer Price Index from the prior year plus 1%, but not less than 3% and not more than 5% per year. Existing law additionally authorizes the commission to increase the rates in effect for CARE program participants for electricity usage up to 130% of baseline quantities by the annual percentage increase in benefits under the CalWORKs program, as defined, not to exceed 3%, and subject to the limitation that the CARE rates not exceed 80% of the corresponding rates charged to residential customers not participating in the CARE program. Existing law states the intent of the Legislature that CARE program participants be afforded the lowest possible electric and gas rates and, to the extent possible, be exempt from additional surcharges attributable to the energy crisis of 2000–01.

This bill would repeal the limitations upon increasing the electric service rates of residential customers, including the rate increase limitations applicable to electric service provided to CARE customers, but would require the commission, in establishing rates for CARE program participants, to ensure that low-income ratepayers are not jeopardized or overburdened by monthly energy expenditures and to adopt CARE rates in which the level of discount for low-income electricity and gas ratepayers correctly reflects their level of need, as determined by a specified needs assessment. *The bill would require that this needs assessment be performed not less often than every 3rd year. The bill would revise the CARE program eligibility requirements to provide that for one-person households, program eligibility would be based on 2-person household guideline levels.* The bill would require the commission, when establishing the CARE discounts for an electrical corporation with 100,000 or more customer accounts in California, to

ensure that the average effective CARE discount be no less than 30% and no more than 35% of the revenues that would have been produced for the same billed usage by non-CARE customers and that the entire discount be provided in the form of a reduction in the overall bill for the eligible CARE customer. The bill would require that increases to rates and charges in rate design proceedings, including any reduction in the CARE discount, be reasonable and subject to a reasonable phase-in schedule relative to the rates and charges in effect prior to January 1, 2014. The bill would authorize the commission to approve new, or expand existing, fixed charges, *as defined*, for an electrical corporation for the purpose of collecting a reasonable portion of the fixed costs of providing service to residential customers. The bill would require the commission to ensure that any new or expanded fixed charges reasonably reflect an appropriate portion of the different costs of serving small and large customers, do not unreasonably impair incentives for conservation and energy efficiency, and do not overburden low-income and moderate-income customers. The bill would impose a \$10 limit per residential customer account per month *for customers not enrolled in the CARE program, would impose a \$5 per month limit per residential customer account per month for customers enrolled in the CARE program*, and would authorize the commission to adjust this maximum allowable charge by no more than the annual percentage ~~change in authorized residential class revenue requirements~~ *increase in the Consumer Price Index for the prior calendar year*. *The bill would authorize the commission to consider whether minimum bills are an appropriate substitute for any fixed charges.*

Existing law prohibits the commission from requiring or permitting an electrical corporation to do any of the following: (1) employ mandatory or default time-variant pricing, as defined, with or without bill protection, as defined, for residential customers prior to January 1, 2013, (2) employ mandatory or default time-variant pricing, without bill protection, for residential customers prior to January 1, 2014, or (3) employ mandatory or default real-time pricing, without bill protection, for residential customers prior to January 1, 2020. Existing law authorizes the commission to authorize an electrical corporation to offer residential customers the option of receiving service pursuant to time-variant pricing and to participate in other demand response programs. Existing law requires the commission to only approve an electrical corporation's use of default time-variant pricing for residential customers, beginning January 1, 2014, if those residential customers

have the option to not receive service pursuant to time-variant pricing and incur no additional charges, as specified, as a result of the exercise of that option. Existing law exempts certain customers from being subject to default time-variant pricing.

This bill would delete these provisions and instead prohibit the commission from requiring or permitting an electrical corporation from employing mandatory or default time-variant pricing, *as defined*, for any residential customer prior to January 1, 2020: *customer, except that beginning January 1, 2018, the commission may require or authorize an electrical corporation to employ default time-of-use pricing to residential customers, subject to specified limitations and conditions.* The bill would permit the commission to authorize an electrical corporation to offer residential customers the option of receiving service pursuant to time-variant pricing and to participate in other demand response programs. The bill would provide that through December 31, 2019, any a residential customer would have the option to not receive service pursuant to time-variant pricing and not incur any additional charge as a result of the exercise of that option. Beginning January 1, 2020, the bill would authorize the commission to require or permit an electrical corporation to employ mandatory or default time-of-use pricing for residential customers subject to specified conditions. *Unless the commission has authorized an electrical corporation to employ default time-of-use pricing, the bill would require the commission to require each electrical corporation to offer default rates to residential customers with at least 2 usage tiers and would require that the first tier include electricity usage of no less than the baseline quantity established by the commission. The bill would authorize the commission to modify the baseline seasonal definitions and applicable percentage of average consumption for one or more climate zones.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 382 of the Public Utilities Code is
- 2 amended to read:
- 3 382. (a) Programs provided to low-income electricity
- 4 customers, including, but not limited to, targeted energy-efficiency
- 5 services and the California Alternate Rates for Energy program

1 shall be funded at not less than 1996 authorized levels based on
2 an assessment of customer need.

3 (b) In order to meet legitimate needs of electric and gas
4 customers who are unable to pay their electric and gas bills and
5 who satisfy eligibility criteria for assistance, recognizing that
6 electricity is a basic necessity, and that all residents of the state
7 should be able to afford essential electricity and gas supplies, the
8 commission shall ensure that low-income ratepayers are not
9 jeopardized or overburdened by monthly energy expenditures.
10 Energy expenditure may be reduced through the establishment of
11 different rates for low-income ratepayers, different levels of rate
12 assistance, and energy efficiency programs.

13 (c) Nothing in this section shall be construed to prohibit electric
14 and gas providers from offering any special rate or program for
15 low-income ratepayers that is not specifically required in this
16 section.

17 (d) Beginning in 2002, an assessment of the needs of
18 low-income electricity and gas ratepayers shall be conducted
19 periodically by the commission with the assistance of the
20 Low-Income Oversight Board. *A periodic assessment shall be*
21 *made not less often than every third year.* The assessment shall
22 evaluate low-income program implementation and the effectiveness
23 of weatherization services and energy efficiency measures in
24 low-income households. The assessment shall consider whether
25 existing programs adequately address low-income electricity and
26 gas customers' energy expenditures, hardship, language needs,
27 and economic burdens.

28 (e) The commission shall, by not later than December 31, 2020,
29 ensure that all eligible low-income electricity and gas customers
30 are given the opportunity to participate in low-income energy
31 efficiency programs, including customers occupying apartments
32 or similar multiunit residential structures. The commission and
33 electrical corporations and gas corporations shall make all
34 reasonable efforts to coordinate ratepayer-funded programs with
35 other energy conservation and efficiency programs and to obtain
36 additional federal funding to support actions undertaken pursuant
37 to this subdivision.

38 These programs shall be designed to provide long-term
39 reductions in energy consumption at the dwelling unit based on
40 an audit or assessment of the dwelling unit, and may include

1 improved insulation, energy efficient appliances, measures that
2 utilize solar energy, and other improvements to the physical
3 structure.

4 (f) The commission shall allocate funds necessary to meet the
5 low-income objectives in this section.

6 ~~SECTION 1.~~

7 *SEC. 2.* Section 739.1 of the Public Utilities Code is amended
8 to read:

9 739.1. (a) The commission shall continue a program of
10 assistance to low-income electric and gas customers with annual
11 household incomes that are no greater than 200 percent of the
12 federal poverty guideline levels, the cost of which shall not be
13 borne solely by any single class of customer. *For one-person*
14 *households, program eligibility shall be based on two-person*
15 *household guideline levels.* The program shall be referred to as
16 the California Alternate Rates for Energy or CARE program. The
17 commission shall ensure that the level of discount for low-income
18 electric and gas customers correctly reflects the level of need.

19 (b) The commission shall establish rates for CARE program
20 participants, subject to both of the following:

21 (1) That the commission ensure that low-income ratepayers are
22 not jeopardized or overburdened by monthly energy expenditures,
23 pursuant to subdivision (b) of Section 382.

24 (2) That the level of the discount for low-income electricity and
25 gas ratepayers correctly reflects the level of need as determined
26 by the needs assessment conducted pursuant to subdivision (d) of
27 Section 382.

28 (c) In establishing CARE discounts for an electrical corporation
29 with 100,000 or more customer accounts in California, the
30 commission shall ensure all of the following:

31 (1) The average effective CARE discount shall not be less than
32 30 percent or more than 35 percent of the revenues that would
33 have been produced for the same billed usage by non-CARE
34 customers. The average effective discount determined by the
35 commission shall reflect any charges not paid by CARE customers,
36 including payments for the California Solar Initiative, payments
37 for the self-generation incentive program made pursuant to Section
38 379.6, payment of the separate rate component to fund the CARE
39 program made pursuant to subdivision (a) of Section 381, payments
40 made to the Department of Water Resources pursuant to Division

1 27 (commencing with Section 80000) of the Water Code, and any
2 discount in a fixed charge. The average effective CARE discount
3 shall be calculated as ~~an~~ *a weighted* average of the CARE discounts
4 ~~offered~~ *provided* to individual customers.

5 (2) ~~The~~ *If an electrical corporation provides an average effective*
6 *CARE discount in excess of the maximum percentage specified in*
7 *paragraph (1), the electrical corporation shall not annually reduce*
8 *its reduce, on an annual basis, the average effective CARE*
9 *discount by more than a reasonable percentage decrease below its*
10 ~~average effective CARE percentage the discount in effect on~~
11 ~~December 31, 2013. The commission shall determine what is a~~
12 ~~reasonable percentage decrease. January 1, 2013, or that the~~
13 ~~electrical corporation had been authorized to place in effect by~~
14 ~~that date.~~

15 (3) The entire discount shall be provided in the form of a
16 reduction in the overall bill for the eligible CARE customer.

17 (d) The commission shall work with electrical and gas
18 corporations to establish penetration goals. The commission shall
19 authorize recovery of all administrative costs associated with the
20 implementation of the CARE program that the commission
21 determines to be reasonable, through a balancing account
22 mechanism. Administrative costs shall include, but are not limited
23 to, outreach, marketing, regulatory compliance, certification and
24 verification, billing, measurement and evaluation, and capital
25 improvements and upgrades to communications and processing
26 equipment.

27 (e) The commission shall examine methods to improve CARE
28 enrollment and participation. This examination shall include, but
29 need not be limited to, comparing information from CARE and
30 the Universal Lifeline Telephone Service (ULTS) to determine
31 the most effective means of utilizing that information to increase
32 CARE enrollment, automatic enrollment of ULTS customers who
33 are eligible for the CARE program, customer privacy issues, and
34 alternative mechanisms for outreach to potential enrollees. The
35 commission shall ensure that a customer consents prior to
36 enrollment. The commission shall consult with interested parties,
37 including ULTS providers, to develop the best methods of
38 informing ULTS customers about other available low-income
39 programs, as well as the best mechanism for telephone providers
40 to recover reasonable costs incurred pursuant to this section.

(f) (1) The commission shall improve the CARE application process by cooperating with other entities and representatives of California government, including the California Health and Human Services Agency and the Secretary of California Health and Human Services, to ensure that all gas and electric customers eligible for public assistance programs in California that reside within the service territory of an electrical corporation or gas corporation, are enrolled in the CARE program. *The commission may determine that gas and electric customers are categorically eligible for CARE assistance if they are enrolled in other public assistance programs with substantially the same income eligibility requirements as the CARE program.* To the extent practicable, the commission shall develop a CARE application process using the existing ULTS application process as a model. The commission shall work with electrical and gas corporations and the Low-Income Oversight Board established in Section 382.1 to meet the low-income objectives in this section.

(2) The commission shall ensure that an electrical corporation or gas corporation with a commission-approved program to provide discounts based upon economic need in addition to the CARE program, including a Family Electric Rate Assistance program, utilize a single application form, to enable an applicant to alternatively apply for any assistance program for which the applicant may be eligible. It is the intent of the Legislature to allow applicants under one program, that may not be eligible under that program, but that may be eligible under an alternative assistance program based upon economic need, to complete a single application for any commission-approved assistance program offered by the public utility.

(g) It is the intent of the Legislature that the commission ensure CARE program participants receive affordable electric and gas service that does not impose an unfair economic burden on those participants.

(h) The commission's program of assistance to low-income electric and gas customers shall, as soon as practicable, include nonprofit group living facilities specified by the commission, if the commission finds that the residents in these facilities substantially meet the commission's low-income eligibility requirements and there is a feasible process for certifying that the assistance shall be used for the direct benefit, such as improved

1 quality of care or improved food service, of the low-income
2 residents in the facilities. The commission shall authorize utilities
3 to offer discounts to eligible facilities licensed or permitted by
4 appropriate state or local agencies, and to facilities, including
5 women's shelters, hospices, and homeless shelters, that may not
6 have a license or permit but provide other proof satisfactory to the
7 utility that they are eligible to participate in the program.

8 (i) (1) In addition to existing assessments of eligibility, an
9 electrical corporation may require proof of income eligibility for
10 those CARE program participants whose electricity usage, in any
11 monthly or other billing period, exceeds 400 percent of baseline
12 usage. The authority of an electrical corporation to require proof
13 of income eligibility is not limited by the means by which the
14 CARE program participant enrolled in the program, including if
15 the participant was automatically enrolled in the CARE program
16 because of participation in a governmental assistance program. If
17 a CARE program participant's electricity usage exceeds 400
18 percent of baseline usage, the electrical corporation may require
19 the CARE program participant to participate in the Energy Savings
20 Assistance Program (ESAP), which includes a residential energy
21 assessment, in order to provide the CARE program participant
22 with information and assistance in reducing his or her energy usage.
23 Continued participation in the CARE program may be conditioned
24 upon the CARE program participant agreeing to participate in
25 ESAP within 45 days of notice being given by the electrical
26 corporation pursuant to this paragraph. The electrical corporation
27 may require the CARE program participant to notify the utility of
28 whether the residence is rented, and if so, a means by which to
29 contact the landlord, and the electrical corporation may share any
30 evaluation and recommendation relative to the residential structure
31 that is made as part of an energy assessment, with the landlord of
32 the CARE program participant. Requirements imposed pursuant
33 to this paragraph shall be consistent with procedures adopted by
34 the commission.

35 (2) If a CARE program participant's electricity usage exceeds
36 600 percent of baseline usage, the electrical corporation shall
37 require the CARE program participant to participate in ESAP,
38 which includes a residential energy assessment, in order to provide
39 the CARE program participant with information and assistance in
40 reducing his or her energy usage. Continued participation in the

CARE program shall be conditioned upon the CARE program participant agreeing to participate in ESAP within 45 days of a notice made by the electrical corporation pursuant to this paragraph. The electrical corporation may require the CARE program participant to notify the utility of whether the residence is rented, and if so, a means by which to contact the landlord, and the electrical corporation may share any evaluation and recommendation relative to the residential structure that is made as part of an energy assessment, with the landlord of the CARE program participant. Following the completion of the energy assessment, if the CARE program participant's electricity usage continues to exceed 600 percent of baseline usage, the electrical corporation may remove the CARE program participant from the program if the removal is consistent with procedures adopted by the commission. Nothing in this paragraph shall prevent a CARE program participant with electricity usage exceeding 600 percent of baseline usage from participating in an appeals process with the electrical corporation to determine whether the participant's usage levels are legitimate.

(3) A CARE program participant in a rental residence shall not be removed from the program in situations where the landlord is nonresponsive when contacted by the electrical corporation or does not provide for ESAP participation.

~~SEC. 2.~~

SEC. 3. Section 739.9 of the Public Utilities Code is repealed.

~~SEC. 3.~~

SEC. 4. Section 739.9 is added to the Public Utilities Code, to read:

739.9. (a) *"Fixed charge" means any fixed customer charge, basic service fee, demand differentiated basic service fee, demand charge, or other charge not based upon the volume of electricity consumed.*

(b) Increases to *electrical* rates and charges in rate design proceedings, including any reduction in the California Alternate Rates for Energy (CARE) discount, shall be reasonable and subject to a reasonable phase-in schedule relative to the rates and charges in effect prior to January 1, 2014.

(c) *Except as provided in subdivision (c) of Section 745, the commission shall require each electrical corporation to offer default rates to residential customers with at least two usage tiers.*

1 *The first tier shall include electricity usage of no less than the*
2 *baseline quantity established pursuant to paragraph (1) of*
3 *subdivision (d) of Section 739.*

4 *(d) Consistent with the requirements of Section 739, the*
5 *commission may modify the seasonal definitions and applicable*
6 *percentage of average consumption for one or more climatic zones.*

7 ~~(b)~~

8 *(e) The commission may adopt new, or expand existing, fixed*
9 *charges for the purpose of collecting a reasonable portion of the*
10 *fixed costs of providing electric service to residential customers.*
11 *The commission shall ensure that any approved charges do all of*
12 *the following:*

13 *(1) Reasonably reflect an appropriate portion of the different*
14 *costs of serving small and large customers.*

15 *(2) Not unreasonably impair incentives for conservation and*
16 *energy efficiency.*

17 *(3) Not overburden low-income and—moderate-income*
18 *customers.*

19 ~~(e) The~~

20 *(f) For the purposes of this section and Section 739.1, the*
21 *commission may authorize fixed charges that do not exceed ten*
22 *dollars (\$10) per residential customer account per month. The*
23 *month for customers not enrolled in the CARE program and five*
24 *dollars (\$5) per residential customer account per month for*
25 *customers enrolled in the CARE program. Beginning January 1,*
26 *2015, the maximum allowable fixed charge may be adjusted by*
27 *no more than the annual percentage change in authorized residential*
28 *class revenue requirements. This increase in the Consumer Price*
29 *Index or the prior calendar year. This subdivision applies to any*
30 *default rate schedule, at least one optional tiered rate schedule,*
31 *and at least one optional time variant rate schedule.*

32 *(g) This section does not require the commission to approve*
33 *any new or expanded fixed-customer charge.*

34 *(h) The commission may consider whether minimum bills are*
35 *appropriate as a substitute for any fixed charges.*

36 ~~SEC. 4.~~

37 *SEC. 5.* Section 745 of the Public Utilities Code is repealed.

38 ~~SEC. 5.~~

39 *SEC. 6.* Section 745 is added to the Public Utilities Code, to
40 read:

1 745. (a) For purposes of this section, “time-variant pricing”
2 includes time-of-use rates, critical peak pricing, and real-time
3 pricing, but does not include programs that provide customers with
4 discounts from standard tariff rates as an incentive to reduce
5 consumption at certain times, including peak time rebates.

6 (b) The commission may authorize an electrical corporation to
7 offer residential customers the option of receiving service pursuant
8 to time-variant pricing and to participate in other demand response
9 programs. The commission shall not establish a mandatory or
10 default time-variant pricing tariff for any residential customer
11 except as authorized in subdivision (c).

12 (c) Beginning January 1, ~~2020~~, 2018, the commission may
13 require or authorize an electrical corporation to employ ~~mandatory~~
14 ~~or~~ default time-of-use pricing for residential customers subject to
15 all of the following:

16 (1) Residential customers receiving a medical baseline allowance
17 pursuant to subdivision (c) of Section 739, customers requesting
18 third-party notification pursuant to subdivision (c) of Section 779.1,
19 ~~and~~ customers who the commission has ordered cannot be
20 disconnected from service without an in-person visit from a utility
21 representative (Decision 12-03-054 (March 22, 2012), Decision
22 on Phase II Issues: Adoption of Practices to Reduce the Number
23 of Gas and Electric Service Disconnections, Order 2 (b) at page
24 55), *and other customers designated by the commission in its*
25 *discretion* shall not be subject to ~~mandatory or~~ default time-of-use
26 pricing *without their affirmative consent*.

27 (2) The commission shall ensure that any time-of-use rate
28 schedule does not cause unreasonable hardship for senior citizens
29 or economically vulnerable customers in hot climate zones.

30 (3) The commission shall ~~authorize~~ *strive for* time-of-use rate
31 schedules that utilize time periods that are appropriate for at least
32 the following five years.

33 (4) A residential customer shall not be subject to a ~~mandatory~~
34 ~~or~~ default time-of-use rate schedule unless that residential customer
35 has been provided with not less than one year of interval usage
36 data from an advanced meter and associated customer education
37 *and, following the passage of this period, is provided with no less*
38 *than one year of bill protection during which the total amount paid*
39 *by the residential customer for electric service shall not exceed*

1 *the amount that would have been payable by the residential*
2 *customer under that customer's previous rate schedule.*

3 *(5) Each electrical corporation shall provide each residential*
4 *customer, not less than once per year, using a reasonable delivery*
5 *method of the customer's choosing, a summary of available tariff*
6 *options with a calculation of expected annual bill impacts under*
7 *each available tariff. The summary shall not be provided to*
8 *customers who notify the utility that they choose not to receive the*
9 *summary. The reasonable costs of providing this service shall be*
10 *recovered in rates.*

11 *(6) Residential customers have the option to not receive service*
12 *pursuant to a time-of-use rate schedule and incur no additional*
13 *charges as a result of the exercise of that option. Prohibited*
14 *charges include, but are not limited to, administrative fees for*
15 *switching away from time-of-use pricing, hedging premiums that*
16 *exceed any actual costs of hedging, and more than a proportional*
17 *share of any discounts or other incentives paid to customers to*
18 *increase participation in time-of-use pricing. This prohibition on*
19 *additional charges is not intended to ensure that a customer will*
20 *necessarily experience a lower total bill as a result of the exercise*
21 *of the option to not receive service pursuant to a time-of-use rate*
22 *schedule.*